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Judge tells Boise County to levy taxes to pay off judgment

The commission sends in the first payment on the \$5.4 million it owes for violating fair housing rules.

BY KATY MOELLER - kmoeller@idahostatesman.com

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Boise County delivered a \$1.2 million check to development firm Oaas Laney Monday, the first of a number of payments ordered by a federal judge.

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The judge outlined a payment plan for the county and said it should raise taxes — even beyond the cap set by Idaho law — and tap unspent funds throughout its budget if that's what it takes.

U.S. District Judge B. Lynn Winmill ordered the payments — totaling \$5.4 million, including about \$1.4 million in attorneys' fees — after a federal jury last year said the county violated the Fair Housing Act in its handling of an application for a proposed teen treatment center called Alamar Ranch.

County commissioners didn't see how they could maintain county services and pay the judgment, so they sought Chapter 9 bankruptcy protection.

But a bankruptcy judge ruled that the county failed to prove it is insolvent and ordered the county to pay.

The county tentatively settled with Oaas Laney in September.

Winmill ordered the county to pay \$1.2 million by Monday, and another \$1.05 million by Dec. 21. After Nov. 14, the annual interest on the balance owed is 5.5 percent.

Boise County Commission Chairwoman Jamie Anderson declined comment, other than to say the county is complying.

The order says the county "must levy above the 3 percent budget cap" in Idaho law because the county doesn't have the cash on hand to pay the full amount. It also states that the county shall levy up to the maximum of 0.2 percent of the county's current taxable property value (estimated at about \$681 million).

State law is intended to protect taxpayers from large tax increases, by limiting how much local government budgets can grow each year and capping their tax levy. A proposed increase of more than 3 percent must be approved by a two-thirds yes vote.

WHO TO OBEY?

Does this order by a federal judge supersede that state law, or is this case some sort of legal exception?

Winmill seems to anticipate resistance from the Idaho State Tax Commission.

His order requires the county to "seek a declaratory judgment or other legal" remedy against the Tax Commission if it doesn't approve the levies.

A spokesman for the Idaho State Tax Commission said officials hadn't had time to review the document.

Commissioner Anderson said a detailed press release is in the works and commissioners are planning a community meeting.

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Winmill's order sets very specific requirements about payment. It mandates that the county pay a minimum of \$811,000 annually.

That's 8 percent of the county's 2012 budget of \$9.8 million.

The county is required to make twice-a-year payments on or before Feb. 28 and Sept. 1. If it cannot make the minimum amount through an increased tax levy, then it must tap "no longer needed" monies in the general fund, county road fund, bridge fund or other funds.

Commissioners last Thursday convened a special meeting to appropriate the first two payments totalling \$2.25 million.

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